

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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EBEN ALEXANDER, III, M.D.

Plaintiff,

v.

BRIGHAM AND WOMEN'S PHYSICIANS  
ORGANIZATION, INC., successor to  
Brigham Surgical Group Foundation, Inc.,  
BOSTON NEUROSURGICAL FOUNDATION  
INC., BRIGHAM SURGICAL GROUP  
FOUNDATION, INC. DEFERRED  
COMPENSATION PLAN, BRIGHAM  
SURGICAL GROUP FOUNDATION, INC.  
FACULTY RETIREMENT BENEFIT  
PLAN, COMMITTEE ON COMPENSATION  
OF THE BRIGHAM SURGICAL GROUP  
FOUNDATION, INC., and  
PETER BLACK, M.D.

Defendants.

Case No. 04-10738-MLW

**JOINT MOTION TO FILE REPLY AND SURREPLY BRIEFS  
TO CROSS-MOTIONS FOR SUMMARY JUDGMENT**

The parties hereby respectfully request that the Court adopt the following schedule for submission of a reply brief by plaintiff and a surreply brief by defendants in connection with the parties' cross-motions for summary judgment:

Deadline for plaintiff to file reply brief

June 9, 2005

Deadline for defendants to file surreply brief

June 29, 2005

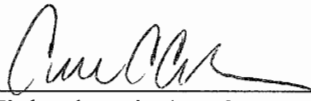
In support of this motion, the parties state that plaintiff filed his motion for summary judgment on April 8, 2005 and defendants filed a cross-motion for summary judgment on May 16, 2005 on

the issue of whether two deferred compensation plans are valid "top hat" plans under ERISA. The parties believe that an additional round of short briefs will assist the Court's determination of this issue. In its reply brief, plaintiff will address the arguments raised in defendants' cross-motion for summary judgment and, in their surreply brief, defendants will address the arguments made in plaintiff's reply brief.

WHEREFORE, for the foregoing reasons, the parties respectfully request that the Court adopt the schedule set forth above and schedule oral argument for a date after submission of defendants' surreply brief.

Plaintiff,

By his attorneys,

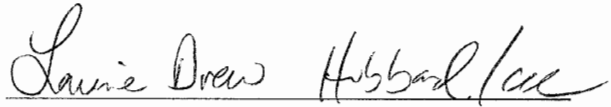
  
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Dated: May 24, 2005  
Firmwide:80049152.1

Respectfully submitted,

Defendants,

By their attorneys,

  
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